

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.6.2208, 12.6.2215, and) PROPOSED AMENDMENT
12.6.2220 regarding exotic species)

TO: All Concerned Persons

1. On August 21, 2008 at 6:00 p.m. the commission will hold a public hearing at the Fish, Wildlife and Parks Headquarter offices located at 1420 East 6th Avenue, Helena, Montana to consider the amendment of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than August 7, 2008, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail jesnyder@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.6.2208 LIST OF CONTROLLED SPECIES (1) The following birds are classified as controlled species:

- (a) Black-Crowned Crane - *Balearica pavonina*;
- (b) Black-necked Crane - *Grus nigricollis*;
- (c) Blue Crane - *Anthropoides paradiseus*;
- (d) Brolga - *Grus rubicunda*;
- (e) Buff-banded Rail - *Gallirallus philippensis*;
- (f) Common Crane - *Grus grus*;
- (g) Demoiselle Crane - *Anthropoides virgo*;
- (h) Giant Wood Rail - *Aramides ypecaha*;
- (i) Grey Crowned Crane - *Balearica regulorum*;
- (j) Hooded Crane - *Grus monacha*;
- (k) Red-crowned Crane - *Grus japonensis*;
- (l) Sarus Crane - *Grus antigone*;
- (m) Siberian Crane - *Grus leucogeranus*;
- (n) Taita Falcon - *Falco fasciinucha*;
- (o) Wattled Crane - *Grus carunculata*;
- (p) White-breasted Waterhen - *Amaurornis phoenicurus*;
- (q) White-naped Crane - *Grus vipio*; and

~~(a)~~ (r) exotic waterfowl in the family Anatidae that are not classified as prohibited.

(2) remains the same.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-709, 87-5-711, 87-5-712, MCA

12.6.2215 LIST OF PROHIBITED SPECIES (1) through (3) remain the same.

(4) The following mammals are classified as prohibited species:

- (a) Brush-tailed possum - *Trichosurus vulpecula*;
 - (b) Nutria - *Myocastor coypus*;
 - (c) primates in the family *Cebidae* (new world primates);
 - (d) primates in the family *Cercopithecidae* (old world monkeys);
 - (e) primates in the family *Hylobatidae* (gibbons);
 - (f) primates in the family *Pongidae* (apes);
 - (g) Short-tailed opossum - *Monodelphis domestica*;
 - (h) Small spotted genet - *Genetta genetta*;
 - ~~(h)~~ (i) Southern flying squirrel - *Glaucomys volans*; and
 - ~~(i)~~ (j) Virginia opossum - *Didelphis virginiana*.
- (5) and (6) remain the same.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

12.6.2220 PROHIBITED SPECIES PERMITS (1) The department may issue a permit for possession of a prohibited species only to the following:

- (a) through (e) remain the same.
- (f) a tax-exempt nonprofit organization licensed by the United States Department of Agriculture that exhibits wildlife solely for educational or scientific purposes; ~~or~~
- (g) a person who, due to a medical necessity, has assistance requirements that may be provided by the prohibited species and that requirement is certified by a physician licensed in the state of Montana; or
- (h) a rescue facility for exotic wildlife with either national or state agency affiliation engaged in temporary housing of exotic wildlife for the purpose of rescue for relocation.

(2) and (3) remain the same.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-709, 87-5-711, 87-5-712, MCA

4. The 2003 Legislature passed SB 442 granting the commission authority to adopt rules regarding the importation, possession, and sale of exotic wildlife through the operation of a "classification review committee" (committee). The intent of SB 442 was to protect Montana's native wildlife and plant species, livestock, horticultural, forestry, agricultural production, and human health and safety from the harmful effects of unregulated exotic animals.

The function of the committee created by SB 442 is to recommend classification of individual exotic animal species to the commission. The committee may recommend that a species be classified as noncontrolled, controlled, or

prohibited for importation, possession, and sale. If the commission approves the committee's recommendations, the commission begins administrative rulemaking to incorporate the recommendations into these classification lists: noncontrolled species, controlled species, and prohibited species.

The purpose of this rulemaking is to implement the recommendations of the committee and to increase the clarity of the existing rule through minor editing changes.

The committee recommended the addition of 17 species of exotic wildlife to the list of controlled species. These additions made revisions to ARM 12.6.2208 necessary. After evaluating these species and finding that potential impacts of private ownership could be minimized by the owners following restrictions on a controlled species permit, these animals were recommended to be classified as controlled. Additional and similar controls are placed on these species by the USFWS through the requirement for waterfowl sale and disposal permits and/or CITES permits for some of the species.

Revisions to ARM 12.6.2215 add one species of exotic wildlife to the list of prohibited species not allowed for personal possession as pets in Montana. The classification of this exotic wildlife species as prohibited for personal possession as pets was recommended by the committee because the species 1) would not be readily subject to control by humans while in captivity, 2) would pose a substantial threat to native wildlife and plants or agricultural production if released from captivity, or 3) would pose a risk to human health or safety, livestock, or native wildlife through disease transmission, hybridization, or ecological or environmental damage.

ARM 12.6.2220 was revised to allow "sanctioned" rescue facilities to temporarily house prohibited species until the animals are relocated.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendment in writing to FWP Exotics, Fisheries, P.O. Box 200701, Helena, MT 59620-0701, or e-mail them to fwpexotics@mt.gov. Any comments must be received no later than August 29, 2008.

6. Eileen Ryce or another hearings officer appointed by the department has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife, and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ Steve Doherty

Steve Doherty

Chairman

Fish, Wildlife and Parks Commission

/s/ Bill Schenk

Bill Schenk

Rule Reviewer

Department of Fish, Wildlife and Parks

Certified to the Secretary of State July 21, 2008